THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7333 of 2007

19.4.2007

Between:

The District Cooperative Central Bank Limited, West Godavari District Eluru, reprsented by its General Manager, C.Mallikarjuna Rao

… Petitioner

AND

The Government of Andhra Pradesh, represented by its Principal Secretary, Public Enterprises Department, Secretariat, Hyderabad

And another

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.7333 of 2007

ORDER:

The District Cooperative Central Bank is the petitioner herein. Second respondent herein addressed a communication bearing No.04/IS/SHCSL/2005-52, dated 05.8.2005 in the matter of sale of assets of Sri ASM Cooperative Sugar Factory Limited (hereafter called, sugar unit) and discharge of its liabilities out of the sale proceeds of the said sugar unit. While enclosing a bank demand draft for a sum of Rs.64,65,600/- in favour of the Controller of Accounts, Ministry of Consumer Affairs, Food & Distribution, Government of India, second respondent requested third respondent to take necessary steps for waiver of penal interest on Rs.66,23,627/- by the Government of India. While doing so, it was also informed that petitioner's request for payment of Rs.5.00 lakhs by way of sugar pledge loan. Second respondent also enclosed another bank demand draft for a sum of Rs.45.00 lakhs in favour of the petitioner towards full and final settlement of dues payable by the sugar unit to the petitioner. However, petitioner's claim for payment of Rs.5.00 lakhs towards sugar pledge loan was negatived on the ground that as per Balance Confirmation Certificate (BCC) issued by petitioner to statutory auditors, the amount of Rs.5.00 lakhs was not shown. Aggrieved by the same, the present writ petition is filed.

The petitioner allegedly sanctioned certain amounts to sugar unit including Rs.10.00 lakhs towards cash credit, Rs.35.00 lakhs as clean cash credit on Government guarantee and Rs.5.00 lakhs towards sugar pledge loan. These amounts, in addition to the amounts, were sanctioned by the petitioner. When there was accumulation of dues to a tune of Rs.184.69 lakhs as on 31.1.2001, petitioner filed Arbitration

Cases Nos.12525 of 1997-1998 and 12526 of 1997-1998 against the sugar unit before the Deputy Registrar-cum-Officer On Special Duty (OSD) of the Cooperative Department. The same was allowed. The Managing Director of the sugar unit requested the arbitrator to defer the matter, as the factory was declared as relief undertaking by the Government of Andhra Pradesh. He also requested for one-time settlement agreeing to pay Rs.50.00 lakhs. In the meanwhile, the sugar unit was sold and the third respondent requested first respondent to close the account of the sugar unit with the petitioner, as the latter was unable to pay the loans. However only an amount of Rs.45.00 lakhs was released by the impugned letter. In spite of repeated requests, the amount of Rs.5.00 lakhs towards sugar pledge loan was not released. Before rejecting the claim, first respondent has taken unilateral decision, which is unsustainable.

Learned Counsel for petitioner does not dispute that petitioner approached this Court after lapse of more than year and a half, after encashing the demand draft for Rs.45.00 lakhs. Statedly, petitioner has been pursuing the matter with first respondent as well as Andhra Pradesh State Cooperative Bank for release of the dues without any avail. Petitioner can as well pursue the matter with first respondent. Be that as it is, a perusal of the impugned letter would show that the decision of second respondent to reject the claim towards sugar pledge loan was due to the petitioner, the same must have been reflected in the BCC for the year 2002-2003 or thereafter. No such material is placed before this Court, though the defect in the claim of the petitioner was pointed out in the impugned letter. The petitioner, therefore, cannot be said to have any right to seek a writ from this Court.

The writ petition is misconceived and is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

April 19, 2007.
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